

PLANNING COMMISSION MINUTES

Gardner, Kansas
Monday, August 28, 2006

The Planning Commission met in regular session on the above date at the Gardner City Hall, 120 E. Main Street, Gardner, Kansas.

I. Call to Order

Chairman Stephen Koranda called the meeting to order at 7:00 p.m. Commissioners present: Paul Kilgore, Greg Godwin, Eileen Mertz, Eric Schultz, and Dan Popp. Commissioners absent: Jason Burnett. Also present: Community Development Director Fred Sherman; Planner Erik Pollom; Council Member Tom Breen; applicant Doug Bohi of Blvd. Development, L.L.C.; applicant Tom Barlett of Kill Creek Properties, L.L.C.; engineer for the applicants Joel Riggs of Peridian Group, Inc., and five citizens.

II. Approval of Minutes

The minutes of the August 14, 2006, meeting, were approved by unanimous consent.

III. Consent Items

1. FP-06-13

Consider a Final Plat for Genesis at Copper Springs, a 13.95 acre single family residential development located ½ mile north of 167th Street, west of Moonlight Road. The application is filed by CSP, L.L.C; with engineering services provided by Allenbrand-Drews & Associates, Inc.

1. **APPLICANT:** The applicant is CSP, L.L.C.; with engineering services provided by Allenbrand-Drews & Associates, Inc.
2. **REQUESTED ACTION:** The applicant requests final plat approval for a tract of land containing approximately 13.95 acres for 47 lots of single-family residential development.
3. **LOCATION:** The property is located ½ mile north of 167th Street, west of Moonlight Road.
4. **EXISTING ZONING:** The property is zoned R-1, Single Family Residential District (Z-03-21).
5. **ANALYSIS:** The applicant requests approval of a final plat for Genesis at Copper Springs. This final plat contains 47 lots for single-family residential development. The preliminary plat for this property (Copper Springs, PP-03-08) was approved by the Planning Commission in December of 2003. The layout of lots proposed by this final plat adheres to the design of the approved preliminary plat.

Quarry Access Easement

The preliminary plat for this development was approved with the condition that, prior to any recorded final plats along its southern border, documentation be provided to staff regarding the release of the private access easement that runs along the entire south border of this property. A 40 foot wide private access easement, 20 feet on this property and 20 feet on the property to the south, runs from the quarry property to the west of this subject site to Moonlight Road. This submitted plat reflects this condition as being resolved. As staff has not yet received this documentation, the condition of approval is carried over into staff's recommendation for this plat.

City of Gardner Sewer vs. Johnson County Wastewater Sewer

The Copper Springs development was initially planned to be entirely serviced by Johnson County Waste Water for sanitary sewer service. University Park, the development on the quarter section of land to the south of this subject plat, was planned to be divided between Johnson County sewers and City of Gardner sewers, with most of the southwestern portion of University Park being served by the City of Gardner. A benefit district was formed for the installation of Gardner sanitary sewers on the University Park property. The design engineer for this subject plat indicates that the sanitary sewer infrastructure being designed for this subject plat will be serviced into the City of Gardner sanitary sewer area. Additional analysis will be needed to determine if the sanitary sewer system designed for University Park was adequately sized to receive wastewater from this development before the construction plans are approved to allow the sewer to discharge into the University Park sanitary sewers. The University Park benefit district petition area for sanitary sewers may need to be modified to allow this subject plat area to tap into the University Park sanitary sewers.

6. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission approve the Final Plat for Genesis at Copper Springs (FP-06-13) and forward the item to the City Council with a recommendation to accept the easements and rights-of-way, subject to the following conditions:
 - a. Prior to recording of the final plat, the required excise tax shall be paid.
 - b. Prior to recording of the final plat, documentation regarding the release of the access easements for APAC-Kansas, Inc., shall be submitted the Community Development department.

- c. The design capacity of the University Park sanitary sewer system must be evaluated before the subdivision construction plans are approved to discharge sanitary sewer service into the University Park sanitary sewer system.
- d. The University Park sanitary sewer benefit district petition area must be evaluated, and possibly modified, to allow the land area of this subject plat to discharge into the City of Gardner sanitary sewer system within the University Park development area.

2. FP-06-14

Consider a Final Plat for Genesis at Copper Springs II, a 15.2 acre single family residential development located ½ mile northwest of the 167th Street/Moonlight Road intersection. The application is filed by CSP, L.L.C; with engineering services provided by Allenbrand-Drews & Associates, Inc.

1. **APPLICANT:** The applicant is CSP, L.L.C.; with engineering services provided by Allenbrand-Drews & Associates, Inc.
2. **REQUESTED ACTION:** The applicant requests final plat approval for a tract of land containing approximately 15.2 acres for 48 lots of single-family residential development.
3. **LOCATION:** The property is located ½ mile north of 167th Street, west of Moonlight Road.
4. **EXISTING ZONING:** The property is zoned R-1, Single Family Residential District (Z-03-21).
5. **ANALYSIS:** The applicant requests approval of a final plat for Genesis at Copper Springs II. This final plat contains 48 lots and one tract for single-family residential development. The preliminary plat for this property (Copper Springs, PP-03-08) was approved by the Planning Commission in December of 2003. The layout of lots proposed by this final plat adheres to the design of the approved preliminary plat.
The approval of the Copper Springs preliminary plat noted the possible need to dedicate right-of-way along the southern portion of this property, between the quarry property and University Drive, to provide access to the quarry when the easement east of University Drive has been vacated. The submitted plat addresses this need, dedicating a 30-foot wide tract of land to serve as future right-of-way. For the time being, this tract will not be platted as right-of-way, because the City does not have immediate plans to extend a road through this area. This 30-foot wide tract, coupled with a corresponding 30-foot wide tract that will be required to be dedicated along the northern portion of that area of University Park will be sufficient to construct a collector standard road, if there is a future need to connect a road from University Drive to Gardner Road to the west, either through the quarry property or connecting to Gardner East Road and 162nd Terrace that loops around the south side of Gardner Lake. Until then, access to the quarry property will remain over this tract of land dedicated as a private access easement. The maintenance, upkeep and mowing, of this tract of land needs to be addressed as part of the private access easement document.
6. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission approve the Final Plat for Genesis at Copper Springs II (FP-06-14) and forward the item to the City Council with a recommendation to accept the easements and rights-of-way, subject to the following conditions:
 - a. Prior to recording of the final plat, the required excise tax shall be paid.
 - b. Prior to recording of the final plat, documentation regarding the release of the existing access easements for APAC-Kansas, Inc., and the establishment of a new private access easement from the quarry property to University Drive over Tract A shall be submitted the Community Development department.

3. FP-06-15

Consider a Final Plat for Gardner Retail Plaza, Second Plat, a 30.31 acre commercial development located on the southwest corner of the E. Santa Fe Street/Cedar Niles Road intersection. The application is filed by Wal-Mart, Inc.; with engineering services provided by Continental Consulting Engineers, Inc.

1. **APPLICANT:** The applicant is Wal-Mart, Inc.; with engineering services provided by Continental Consulting Engineers, Inc.
2. **REQUESTED ACTION:** The applicant requests final plat approval for a tract of land containing approximately 30.31 acres for commercial development.
3. **LOCATION:** The property is located on the southwest corner of E. Santa Fe Street and Cedar Niles Road.
4. **EXISTING ZONING:** The property is zoned M-1, Restricted Industry District; and CP-2, Planned General Business District (Z-04-06).
5. **ANALYSIS:** The applicant requests approval of a final plat for Gardner Retail Plaza, Second Plat. This final plat combines lots 1, 4, and 5 from the original final plat into a single lot to reflect the zoning approval by the Johnson County Board of County Commissioners (BOCC Resolution 104-04). These lots were originally platted as separate pad site lots at the northern extent of the Wal-Mart parking lot area. The area of these two previously platted pad sites are now developed as parking lot for the expanded Wal-Mart building, and upon filing of this subject final plat will be incorporated into the larger parcel containing the Wal-Mart store.
This subject plat also creates a new pad site lot, about 32,000 square feet in size, that is currently zoned M-1, Restricted Industry District, at the extreme northeastern corner of the property. Originally, this area was identified as a possible lease site for gas sales, and will now be marketed for sale as a separate development lot. The required excise tax for the entire plat area was paid when the original final plat was filed, therefore, no taxes will be due on this re-plat of the same land area.

6. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission approve the Final Plat for Gardner Retail Plaza, Second Plat, (FP-06-15) and forward the item to the City Council with a recommendation to accept the easements and rights-of-way, with no stipulations.

4. FP-06-16

Consider a Final Plat for Plum Creek Public Safety Center, a 5.26 acre property for a water tower and public safety development located on the north side of 183rd Street, ½ mile east of Gardner Road. The application is filed by the City of Gardner; with engineering services provided by Allenbrand-Drews & Associates, Inc.

1. **APPLICANT:** The applicant is the City of Gardner; with engineering services provided by Allenbrand-Drews & Associates, Inc.
2. **REQUESTED ACTION:** The applicant requests final plat approval for a tract of land containing approximately 4.51 acres for public safety and water tower facilities.
3. **LOCATION:** The property is located on the north side of W. 183rd Street, ½ mile east of S. Center Street.
4. **EXISTING ZONING:** The property is zoned R-1, Single Family Residential District, (Z-96-10) and A, Agricultural District.
5. **ANALYSIS:** The applicant requests approval of a final plat for Plum Creek Public Safety. This final plat contains one lot for a new public safety facility and the existing City water tower. The preliminary plat (PP-04-01) for this property was approved by the Planning Commission on June 14, 2004. As noted in the staff report for PP-04-01:
Prospective Public Safety Facility
Lots 137-140 of this preliminary plat, along with "Tract D" and the open space owned by the City in the southwest corner of this plat, may be combined to allow the City to build a public safety facility. Such a change would be reflected in the final plat, and would result in the removal of the cul-de-sac that currently provides access to those lots.
This change was reflected in the submitted final plat for the first phase of Plum Creek Manor, which replaced a cul-de-sac in the southwest corner of the preliminary plat with a continuous row of lots and an open space to the southwest. The City is now submitting a final plat for the identified property plus the parcel of land that was purchased in the early 1990's for the existing water tower as it moves forward with plans for construction of a second public safety facility. Before building permits are reviewed, the City will have to submit a site plan for the proposed development to be approved by the Planning Commission.
6. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission approve the Final Plat for Plum Creek Public Safety (FP-06-16) and forward the item to the City Council with a recommendation to accept the easements and rights-of-way, with no stipulations.

5. FP-06-17

Consider a Final Plat for Symphony Farms III, a 2.95 acre single family residential development located on the northwest corner of the 167th Street and Kill Creek Road intersection. The application is filed by Johnson County Land Holdings, L.L.C.; with engineering services provided by Allenbrand-Drews & Associates, Inc.

1. **APPLICANT:** The applicant is Johnson County Land Holdings, L.L.C.; with engineering services provided by Allenbrand-Drews & Associates, Inc.
2. **REQUESTED ACTION:** The applicant requests final plat approval for a tract of land containing approximately 2.95 acres for a development of neighborhood amenities for the Symphony Farms development, and a potential public safety facility.
3. **LOCATION:** The property is located on the north side of W. 167th Street, ¾ mile west of Waverly Road.
4. **EXISTING ZONING:** The property is zoned R-1, Single Family Residential District (Z-04-08, Ord. 2122).
5. **ANALYSIS:** The applicant requests approval of a final plat for Symphony Farms III. This final plat features 2 lots for a subdivision pool and potential future public safety facility. The preliminary plat (PP-05-09) for this property was approved by the Planning Commission on September 26, 2005. The configuration of lots proposed by this final plat adheres to the approved preliminary plat.
6. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission approve the Final Plat for Symphony Farms III (FP-06-17) and forward the item to the City Council with a recommendation to accept the easements and rights-of-way, subject to the following condition:
 - a. Prior to recording of the final plat, the required excise tax shall be paid.

6. FDP-06-03

Consider a Final Development Plan for Lincoln Plaza, a 14,250 sq. ft. commercial development located on the northwest corner of the Stone Creek Drive/Lincoln Lane intersection. The application is filed by Bristol Partners XVIII, L.L.C.; with engineering services provided by Peridian Group, Inc.

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1. **APPLICANT:** The applicant is Bristol Partners XVI, L.L.C.; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests approval of a revised final development plan for a multi-tenant commercial retail building.
3. **LOCATION:** The property is located on the northwest corner of the Stone Creek Drive and Lincoln Lane intersection.
4. **EXISTING ZONING:** The property is currently zoned CP-2, Planned General Business District (Z-02-03).
5. **ANALYSIS:** The applicant requests approval of a final development plan for Lincoln Plaza, with a 14,250 sq. ft. commercial building with the potential for up to nine tenant spaces. The proposed layout remains unchanged from the approved preliminary development plan. The only aspect of this final development plan that was not reviewed with the preliminary development plan is the design of the proposed building.

Building Design

The proposed multi-tenant building is very similar to the adjacent building to the west, in Moonlight Commons. The front (south) elevation features a line of glass-fronted tenant spaces. Most are accented by standing-seam metal awnings, are visually divided by vertical brick columns with stone accents, and have E.I.F.S. above each awning for individual tenants' signs. The building will be bisected by a vertical clock tower that of E.I.F.S. (rather than brick, as featured on the Moonlight Commons building) with stone accents. The east and west ends of this building will include covered drive-thru windows.

The easternmost drive-thru is configured for a low-intensity tenant, such as a bank or dry-cleaner. To ensure that this tenant space does not accommodate a tenant that generates higher levels of traffic, the preliminary development plan was approved with the stipulation that this tenant space is prohibited from having an order/menu board of any kind. The stipulation is carried over to staff's recommendations for this final development plan.

The materials shown on the front elevation wrap around the sides of each building to a point halfway between the front and rear. The rear elevation of each building, as well as the rear half of the side elevations, are covered with integrated-color, texture-faced concrete block.

Adjacent Future Office/Storage Building

This final development plan shows the footprint of a proposed office/storage building to the north. Approval of this plan does *not* include this building, because no elevations have been provided. Before building permits are released for a building to the north, a separate final development plan will need to be approved.

Final Plat

This property is currently platted as Tract E, New Century Business Center Addition No. 1. A final plat for this parcel of land, New Century Business Center Addition No. 3, was approved by the Planning Commission on June 12, 2006, and by the City Council on June 19, 2006. This final plat will need to be filed and the required excise tax shall be paid prior to the issuance of a building permit for this proposed development.

6. **STAFF RECOMMENDATION:** Staff recommends approval of the final development plan for Lincoln Plaza (FDP-06-03) with the following stipulations:
 - a) The eastern drive-thru lane shall not feature an order board or menu board of any kind, including placement options that propose a board mounted on the side of the building.
 - b) No signage is approved with the site plan. Separate sign permits are required prior to the installation of any signage.
 - c) The parcel shall be final platted into a lot of record and the required excise tax shall be paid prior to the issuance of a building permit.
 - d) Prior to the issuance of a Certificate of Occupancy, all rooftop and ground mounted mechanical equipment shall be screened from view with an architectural and/or landscape treatment that is compatible with the building architecture.

Consent Agenda Items No. 1, Final Plat for Genesis at Copper Springs (FP-06-13); No. 2, Final Plat for Genesis at Copper Springs II (FP-06-14); No. 3, Final Plat for Gardner Retail Plaza, Second Plat (FP-06-15); No. 4, Final Plat for Plum Creek Public Safety Center (FP-06-16); and No. 5, Final Plat for Symphony Farms III (FP-06-17); were forwarded to the City Council with recommendations for approval of the easements and rights-of-way, subject to staff recommendations, by unanimous consent.

Consent Agenda Item No. 6, Final Development Plan for Lincoln Plaza (FDP-06-03) was approved by unanimous consent, subject to staff recommendations.

IV. Agenda Items

1. Amendments to Chapter 16, Article 518

Conduct a public hearing to consider amendments to Chapter 16, Article 5, Sec. 518, District "M-1" Restricted Industry District, of the Code of the City of Gardner, Kansas.

Chairman Koranda opened the public hearing at 7:03 p.m.

Director Sherman presented the staff report.

1. **APPLICANT:** The applicant is Gardner City Council, per action at the June 19, 2006, City Council meeting.
2. **REQUESTED ACTION:** Conduct a public hearing to consider amendments to Chapter 16, Article 5, Sec. 518, District "M-1" Restricted Industry District, of the Code of the City of Gardner, Kansas, to include churches and other places of worship as allowed land uses within the M-1; Restricted Industry District, with approval of a Conditional Use Permit.
3. **ANALYSIS:** Churches and other places of worship are specifically enumerated land uses within the City of Gardner Zoning Ordinance. This land use is permitted by right within most of the base zoning districts in Gardner, including the A, Agricultural District; all of the lower-density residential zoning districts (R-E, R-1, R-2); and most of the commercial zoning districts.
Churches and other places of worship are not listed as allowed either by right or with the approval of a Conditional Use Permit within the multi-family residential zoning districts (R-3, R-4, R-5); the CO-A, Neighborhood Business District; the two industrial zoning districts (M-1 or M-2); nor within the REC, Recreational District.
At the June 19, 2006, meeting, the City Council initiated a text amendment to the Zoning Ordinance to allow churches and similar places of worship in the M-1 zoning district with the approval of a Conditional Use Permit. Text changes to the Zoning Ordinance may only be initiated by the Governing Body or Planning Commission. When a text amendment to the Zoning Ordinance has been initiated, it will be considered as a public hearing item by the Planning Commission before the City Council considers the item for adoption by ordinance.
Below are the currently adopted Permitted Uses and Conditional Uses allowed within the M-1 zoning district in the City of Gardner:

518.2 PERMITTED USES. In District "M-1" no building, structure, land or premises shall be used and no building or structure shall be here after erected, constructed, moved, or altered, except for one or more of the following uses. Commercial development should be limited to those uses to serve the businesses, employees and visitors to the industrial area:

- A. Assembly halls and convention centers.
- B. Broadcasting studios and cable TV services.
- C. Business supply services.
- D. Catalog and mail order services.
- E. Clubs or lodges.
- F. College or university.
- G. Commercial bakeries.
- H. Commercial pick-up-or delivery services.
- I. Consumer repair services.
- J. Contractors services, yards and storage.
- K. Dry cleaning and laundries warehouse facilities (no retail).
- L. Convenience stores with gas sales.
- M. Laboratories.
- N. Manufacturing, processing, fabricating or assembling of any commodity or product for sale at retail or wholesale except junk or salvage.
- O. Mini-warehouses.
- P. Motor vehicle tow lots, except salvage.
- Q. Offices.
- R. Printing and publishing.
- S. Public and private utility facilities and governmental maintenance facilities, including the outdoor screened storage of and maintenance of motor vehicles and equipment.
- T. Public parks.
- U. Public safety services.
- V. Public utility substations and communication facilities.
- W. Repair and servicing of motor vehicles, machinery, and equipment of all types, including body shops, paint shops, transmission shops, and facilities for engine overhauls.
- X. Research services.
- Y. Retail nurseries, lawn and garden supplies.
- Z. Retail sales of commodities manufactured, processed, fabricated, assembled, warehoused or stored on the permits.
- AA. Sign painting and fabrication.
- BB. Taxi & limousine dispatching centers.
- CC. Vocational schools.
- DD. Warehousing, wholesaling or storage of any commodity except junk or salvage.
- EE. Wholesaling facilities.
- FF. Auction yard and auction houses (non-livestock).
- GG. Animal pounds and kennels within an enclosed building.
- HH. Taxi and limousine storage and maintenance facilities.

518.3 CONDITIONAL USES. The following uses of land may be allowed in this district by conditional use permit when submitted to and reviewed and approved by the Planning Commission and the City Council.

- A. Health and fitness clubs, dance studios, martial arts clubs, and gymnasiums.
- B. Grain elevators.

- C. Livestock auction sales and/or sales of farm related products including seed and feed.
 - D. Child care centers.
 - E. Communication transmission towers and antennas over sixty feet (60').
4. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission recommend to the City Council that churches and other places of worship be included as allowed land uses within the M-1, Restricted Industry District, with approval of a Conditional Use Permit.

Chairman Koranda invited comments from the commissioners. There were no questions.

Chairman Koranda invited comments from the public. There were no public comments.

Motion Godwin, second Mertz, to close the public hearing at 7:05 p.m.

Motion Carried: 6 to 0 Aye (Burnett: Absent)

Chairman Koranda invited questions from the commissioners.

Commissioner Popp asked if there were any particular reasons to disallow churches in industrial districts. Director Sherman explained that some industrial uses were not compatible to general public traffic; and because church properties were tax exempt, economic development of industrial areas could potentially be impacted by large church complexes. He briefly discussed various industrial uses which could be similar to church uses, such as convention centers. He added that, because the parking requirements in industrial districts were very minimal, utilizing the conditional use procedures for churches would allow the City to require the necessary parking for such a facility.

Commissioner Mertz asked if there were currently any churches in industrial districts within Gardner. Director Sherman stated that there was one church in Gardner in an industrial district, and explained the circumstances of that particular facility.

Chairman Koranda expressed his concerns about setting a precedent of changing City codes to conform to nonconforming conditions, rather than the other way around. Director Sherman suggested that the proposed code changes would give the City the tools to evaluate similar requests on a case by case basis to determine the individual needs and compatibilities through the conditional use permit process.

Chairman Koranda and Director Sherman agreed that the church currently in an industrial district would need to utilize the conditional use permitting process to come into conformance with the City code, if the subject amendment was approved.

Motion Mertz, second Popp, to forward the Amendments to Chapter 16, Article 5, Section 518, to include churches and other places of worship as allowed land uses within the M-1, Restricted Industry District, with approval of a Conditional Use Permit, to the City Council with a recommendation for approval.

Motion Carried: 5 to 1 Aye (Koranda: Nay; Burnett: Absent)

2. PDP-06-07

Conduct a public hearing and consider a Revised Preliminary Development Plan for University Park Multi-Family Townhomes, a 23.46 acre multi-family residential development located ½ mile northwest of the 167th Street/Moonlight Road

intersection. The application is filed by Blvd. Development, L.L.C.; with engineering services provided by Peridian Group, Inc.

Chairman Koranda opened the public hearing at 7:25 p.m.

Planner Pollom presented the staff report.

1. **APPLICANT:** The applicant is Blvd. Development, L.L.C.; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests approval of a revised preliminary development plan for a tract of land containing approximately 23.46 acres for planned multi-family residential development.
3. **LOCATION:** The property is located ½ mile northwest of the 167th Street and Moonlight Road intersection.
4. **EXISTING ZONING:** The property is zoned RP-3, Planned Garden Apartment District (Z-03-18).
5. **ANALYSIS:** The applicant requests approval of a revised preliminary development plan for the northwest portion of University Park, due to a proposed change of layout and increased density.

Change of Density

The original development plan for this property indicates a total of 238 units in 48 buildings on 21.89 acres. It was planned with a gross density (including open space) of approximately 10.87 units per acre.

The submitted plan revision features 295 units in 51 buildings on 23.47 acres. This is a gross density of 12.56 units per acre, or an increase of 57 units and 1.69 units per acre. The new density complies with the Community Development Plan – 2003 Medium-Density Residential land use category of between 6 and 15 units per acre. It should be noted, however, that the distribution of this density has changed considerably. The southern half of this plan (south of the east-west private drive fronting the clubhouse) has acquired an additional 61 units from the originally approved plan, while the north half has decreased by 4 units. Two contributing factors to the shift are the relocation of the clubhouse from the south half to the north, and the addition of a detention basin that is centered in the north half of the plan. The result is a density in the southern half of the plan of 13.43 units per acre. If there is a benefit to this consolidation of density, it is that it occurs in the portion of the property closer to the approved apartment and office zoning to the south, and further removed from the single family development to the north.

The Community Development Plan – 2003 contains the following policy regarding density of residential development:

Policy 1.4: Consider Appropriate Density

The number of dwelling units per acre in any residential category should be viewed as representing a density range rather than a maximum allowable density. The exact density of a specific tract is to be determined at the time of rezoning based on the following:

- a) Only projects with exceptional design and locational criteria will warrant density exceeding the midpoint of the density range.
- b) Natural constraints, public facilities, streets and traffic patterns, neighborhood character, community need and surrounding zoning and land use patterns are to be taken into consideration.

The midpoint of the density range for medium-density residential development (from 6 to 15 units per acre) is 10-11 units per acre. Not counting the required storm water detention basin, the increase in density to 12.56 units per acre is requested without improvements to the overall design such as the creation of usable green space or improvements to site design. Staff has identified several outstanding issues with the site design that should be resolved.

Site Design

The submitted preliminary development plan reflects the originally approved layout of private drives. This plan included 90 degree turns at several corners of the private drives. Staff recommends that these corners be given a sufficient curve radius to eliminate the tenant driveway conflicts created at each corner. All four of these locations result in driveways that are extremely close together and at right angles to each other. The three-plex in the southeast corner even shares a portion of its driveway with the neighboring unit to the northeast.

In many areas, the number of driveways along the private streets result in very limited on-street parking opportunities. Given the single car garages with these units, on-street parking becomes increasingly important for use by tenants and their visitors. In a couple of places, there are parking stalls created along the private street in an effort to alleviate this problem.

Future Right-Of-Way

At the northern edge of this development plan, a 30 foot possible future right-of-way is shown. This, when combined with the 30 feet reserved on the adjacent property to the north, provided a full 60 foot right-of-way for a potential future collector street. Until this area is dedicated as right-of-way, this area will provide access from the quarry property to University Drive. In the future, there is the potential for a street that would pass through the quarry property to the west or connect to Gardner East Road and 162nd Terrace, providing a road connection between University Drive and Gardner Road when the quarry is no longer in operation.

Ownership Flexibility

Staff anticipates that there will be future requests to replot this property into individual lots for each unit to allow individual ownership, much like the townhome developments of Cottage Park. Many of the buildings shown on the submitted preliminary development plan are spaced ten (10) feet apart. The minimum side yard setback for this zoning district is seven (7) feet. For a lot line to be platted between buildings in this zoning district, they should be a minimum of fifteen (15) feet apart to allow that space to be bisected without falling short of the setback on either side. The planned zoning district allows the placement of lot lines between individual units in the same building, but it is staff's opinion that it is inappropriate to use this flexibility to ignore the minimum distance required between buildings without greater justification than a desire for an increase in density.

6. **STAFF RECOMMENDATION:** If the Planning Commission is comfortable with the increased density and layout proposed by this plan, staff recommends that the Planning Commission forward the Preliminary Development Plan for University Park Multi-family (PDP-06-07) to the City Council with a recommendation for approval, subject to the following conditions:
- The development shall be in accordance with Exhibit "A" (Preliminary Development Plan) which is filed in the office of the Planning Commission Secretary at City Hall and which is incorporated by reference as if set out in full herein. In addition, the development shall comply with all regulations and standards of the City of Gardner unless specifically exempted by the Governing Body.
 - The development shall be limited to 295 units.
 - Approval of this development plan includes the presumption that staff may design a layout for infrastructure. Should future revisions to this development plan be requested, those revisions may be limited to a design that does not conflict with any implemented infrastructure prescribed by this plan.
 - The location and geometrics of all driveways, sidewalks, public streets, and parking areas are subject to review and approval by Community Development Department staff.
 - Prior to the issuance of building permits, the Planning Commission shall approve a final development plan for this subject property.

Chairman Koranda invited comments from the applicant. Joel Riggs of Peridian Group, Inc., engineer for the applicant, gave a presentation. He explained why the applicant had added units and increased the density of the development plan to attain economic viability for the future homeowners association.

Applicant Doug Bohi of Blvd. Development, L.L.C., pointed out that staff's concerns regarding the side yard setbacks after subdivision of the units for individual sales would not be applicable because the side and rear yards of the buildings would remain common areas, owned and maintained by the homeowners association, and would not be part of the individual property divisions.

Chairman Koranda invited comments from the commissioners. There were no comments.

Chairman Koranda invited comments from the public. There were no public comments.

Motion Schultz, second Godwin, to close the public hearing at 7:45 p.m.

Motion Carried: 6 to 0 Aye (Burnett: Absent)

Chairman Koranda invited questions from the commissioners. There were no questions from the commissioners.

Director Sherman and Mr. Riggs discussed the private streets and the differences between them and public streets. They clarified that the proposed private streets would be built to City standards, except for the setbacks and ninety degree corner turning radiuses. Director Sherman explained possible future maintenance issues of the proposed private streets.

Mr. Bohi and Mr. Riggs clarified that the homeowners association's business would most likely be handled by a professional management firm. Mr. Riggs briefly explained some of the duties and responsibilities of typical homeowners associations.

Commissioner Mertz asked if the homeowners association covenants had been submitted to the City. Director Sherman stated that staff had not requested the covenants. Mr. Bohi and Mr. Riggs stated that the covenants would be submitted for review with the final plat submittal.

Commissioner Godwin suggested placing sidewalks through the common open spaces behind the buildings. Mr. Riggs pointed out that the placement of utilities in phases would make construction and maintenance of such sidewalks almost impossible, and that the required utility easements would also make placement of sidewalks very difficult. He added that there would be sidewalks in the front of the buildings.

Commissioner Godwin inquired about any proposed landscaping. Mr. Riggs stated that the applicant would submit a revised landscape plan to staff.

Commissioner Popp stated that he would like to see sidewalks on both sides of the streets. Mr. Riggs and staff agreed that they were on the submitted plans, though they were difficult to see.

Commissioner Mertz asked if there was sufficient on-street parking. Mr. Riggs stated that the proposed plan met the City code requirements.

Director Sherman explained the future right-of-way easement on the plan to provide potential access to the quarry to the west of the subject property.

Commissioners Godwin and Mertz, Mr. Bohi, Mr. Riggs, and Director Sherman discussed landscape barriers between the proposed buildings and the quarry access easement. They agreed that there would be room for landscaped berms and privacy fences.

Planner Pollom briefly explained staff's recommended condition of approval C.

Commissioner Mertz stated for the record that the homeowners association covenants should be submitted to staff for review with submittal of the final plat.

Motion Mertz, second Godwin, to forward the Revised Preliminary Development Plan for University Park Multi-Family (PDP-06-07) to the City Council with a recommendation for approval, subject to staff recommendations and one additional condition of approval:

- a. The development shall be in accordance with Exhibit "A" (Preliminary Development Plan) which is filed in the office of the Planning Commission Secretary at City Hall and which is incorporated by reference as if set out in full herein. In addition, the development shall comply with all regulations and standards of the City of Gardner unless specifically exempted by the Governing Body.
- b. The development shall be limited to 295 units.
- c. Approval of this development plan includes the presumption that staff may design a layout for infrastructure. Should future revisions to this development plan be requested, those revisions may be limited to a design that does not conflict with any implemented infrastructure prescribed by this plan.
- d. The location and geometrics of all driveways, sidewalks, public streets, and parking areas are subject to review and approval by Community Development Department staff.

- e. Prior to the issuance of building permits, the Planning Commission shall approve a final development plan for this subject property.
- f. Sidewalks shall be constructed on both sides of the interior private streets.

Motion to Forward Carried: 6 to 0 Aye (Burnett: Absent)

3. FDP-06-04

Consider a Final Development Plan for University Park Multi-Family, the 202 unit first phase of a multi-family residential development located ½ mile northwest of the 167th Street/Moonlight Road intersection. The application is filed by Blvd. Development, L.L.C.; with engineering services provided by Peridian Group, Inc.

Director Sherman explained that the subject item should be tabled for further consideration after the associated preliminary development plan had been considered and acted upon by the City Council.

- 1. **APPLICANT:** The applicant is Blvd. Development, L.L.C.; with engineering services provided by Peridian Group, Inc.
- 2. **REQUESTED ACTION:** The applicant requests approval of a final development plan for a tract of land containing approximately 14.05 acres for planned multi-family residential development.
- 3. **LOCATION:** The property is located ½ mile northwest of the 167th Street and Moonlight Road intersection.
- 4. **EXISTING ZONING:** The property is zoned RP-3, Planned Garden Apartment District (Z-03-18).
- 5. **ANALYSIS:** The applicant requests approval of a final development plan for the first phase of the University Park townhomes. This phase includes roughly the southern half of the associated preliminary development plan (PDP-06-07, being considered by the Planning Commission at the August 28, 2006, meeting), plus a proposed clubhouse and pool. The proposed layout of this final development plan adheres to the submitted revision to the preliminary development plan. This revision has not yet been evaluated by the Planning Commission or City Council. Appropriate levels of density and overall site design will be determined with that application, and will ultimately affect this final development plan.

Architectural Elements

There are three different elevations provided for the proposed townhomes, and one set of elevations for the clubhouse. The clubhouse features a single story in the front, with a walkout basement on the rear elevation. All four sides are a combination of manufactured stone stucco with tall glass windows. The cross-gable roof is pitched standing-seam metal with gables on all four elevations and a pyramidal raised cupola at the center.

The townhomes are variations of three, four, five, six and eight-plex buildings. These five configurations carry one of two separate architectural styles. The first style, labeled "Type A", features two separate elevations that show entirely stucco faces, with slight recesses between garage doors for the main entrance. Roofs are pitched with asphalt shingles. The applicant has stated that these units are like the townhomes constructed in the Cottage Park development along S. Woodson Lane, which have a variety of materials featured on their front elevations. This variety was not indicated on the elevations submitted. No side or rear elevations were provided. One of the two elevations included with "Type A" shows a one-story ranch unit to provide more variety between buildings. This wider ranch unit is not shown in any of the building footprints on the submitted plan. Given the close proximity of these buildings, this unit could only be incorporated by reducing the number of units on a larger "standard" building.

The second style, "Type B", includes a similar design; however, it indicates the use of several materials, including wooden lap siding, brick, stone veneer and stucco. Each individual unit is larger, and the garages protrude from the faces of the buildings for their full lengths. The sides and backs of these buildings are wood panel siding.

On-Street Parking

In many areas, the number of driveways along the private streets result in very limited on-street parking opportunities. Given the single car garages with these units, on-street parking becomes increasingly important for use by tenants and their visitors. In a couple of places, there are parking stalls created along the private street in an effort to alleviate this problem.

Future Platting and Infrastructure Design

As with the Cottage Park townhomes, staff expects the townhomes proposed by this final development plan to be subjected to future platting to create separate lots for each of the units for individual sale. In the past, there have been changes to the development plans that occurred with these replats, which created considerable hardship for City crews and staff who design the layouts of infrastructure based upon the originally approved final development plans. Typically the requested changes are for the addition or removal of units, or shifting of the placements of buildings, and at times these changes were in direct conflict with the original infrastructure designs. The submitted final development plan will serve as the document that guides infrastructure design for this property. Should future changes to this plan be requested after improvements are made to the property for extension of services, those plan revisions will be limited to changes that do not create conflicts.

Ownership Flexibility

Staff anticipates that there will be future requests to replat this property into individual lots for each unit to allow individual ownership, much like the townhomes in Cottage Park. Many of the buildings shown on the submitted preliminary development plan are placed ten feet apart. The minimum side yard setback for this zoning district is seven feet. For a lot line to be platted between buildings in this zoning district, they should be a minimum of fifteen feet apart to allow that

space to be bisected without falling short of this setback on either side. The planned zoning district allows placement of lot lines between individual units in the same building, but it is inappropriate to use this flexibility to ignore the minimum distance required between buildings without greater justification than a desire for density.

6. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission table consideration of the Final Development Plan for University Park Multi-Family Townhomes (FDP-06-04) until such time that the Planning Commission and City Council have an opportunity to consider a decision to approve or deny the submitted revised preliminary development plan for this property (PDP-06-07).

Motion Mertz, second Kilgore, to table the Final Development Plan for University Park Multi-Family Townhomes (FDP-06-04) to the September 25, 2006, Planning Commission meeting. Motion to Table Carried: 6 to 0 Aye (Burnett: Absent)

4. Z-06-07; PDP-06-06

Conduct a public hearing and consider rezoning property from R-1 (Single Family Residential District) to RP-3 (Planned Garden Apartment District) for a 14.37 acre property located at 32520 W. 167th Street. The application is filed by Kill Creek Properties, L.L.C.; with engineering services provided by Peridian Group, Inc.

Chairman Koranda opened the public hearing at 8:37 p.m.

Director Sherman presented the staff report.

1. **APPLICANT:** Kill Creek Properties, L.L.C., is the applicant; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests rezoning of 14.4 acres from R-1 (Single-Family Residential District) to RP-3 (Planned Garden Apartment District).
3. **LOCATION:** The 14.4 acre property is located on the north side of 167th Street, about ½ mile east of Four Corners Road.
4. **EXISTING ZONING:** The property is currently zoned R-1; Single-Family District (Z-03-12, Ord. 2082).
5. **CHARACTER OF THE NEIGHBORHOOD:** The subject property currently contains a single family residence and two ancillary agricultural buildings. The land immediately surrounding the subject property is characterized as the developing northwest fringe of the City of Gardner. Existing uses include developing single family subdivisions to the east and northeast; a middle school facility to the far north, and existing rural residential and agricultural uses to the west and south.
6. **LAND USE AND ZONING PATTERNS:** The surrounding properties are zoned R-1, Single Family Residential District, to the immediate north and east; and Johnson County RUR to the west and south.
7. **CONFORMANCE TO THE COMMUNITY DEVELOPMENT PLAN:** The Gardner Community Development Plan - 2003 denotes urban residential land uses and low-density residential development uses for this immediate area. The Community Development Plan attempts to expand housing opportunities by targeting various residential densities. Three residential land use categories are depicted on the Development Plan Map. The categories are distinguishable by the density of development allowed in each:
 - Low-Density: Greater than 1 and less than or equal to 6 units per acre
 - Medium-Density: Greater than 6 and less than or equal to 15 units per acre
 - High-Density: Greater than 15 units per acre

Rezoning the property to RP-3, Planned Garden Apartment District, could be complementary with the intent and policies of the plan. The general goal of the plan for medium density residential land uses is to help form residential neighborhoods that are stable, safe and aesthetically pleasing. Specific policies for medium and high-density land uses include:

Policy 1.1: Ensure Quality Development

Encourage emphasis on open space, access to light and air, and the provision of amenities generally associated with and available to low-density residential development in all medium- and higher-density residential developments.

Policy 1.2: Preserve and Protect the Environment

Encourage the preservation and protection of trees, natural vegetation, wetlands, and environmentally sensitive areas in medium- and higher-density residential developments to serve as site amenities.

Policy 1.3: Provide Open Space

Encourage the provision of usable open space on site by clustering buildings to minimize the creation of narrow strips of unusable open space in front of and between buildings.

Policy 1.4: Consider Appropriate Density

The number of dwelling units per acre in any residential category should be viewed as representing a density range rather than a maximum allowable density. The exact density of a specific tract is to be determined at the time of rezoning based on the following:

- c) Only projects with exceptional design and locational criteria will warrant density exceeding the midpoint of the density range.

- d) Natural constraints, public facilities, streets and traffic patterns, neighborhood character, community need and surrounding zoning and land use patterns are to be taken into consideration.

Policy 1.5: Provide for Variety in Housing Types

Encourage the use of a variety of housing types, including townhomes, patio homes, duplexes, zero lot line homes, cluster housing, garden apartments and retirement housing.

Policy 2.1: Consider Land Use Relationships

The relationship of land uses should reflect consideration of existing development, environmental conditions, and service and access needs. No higher-density development (more than 15 units per net acre) shall have a property line common with properties zoned for single-family and designated as Low-Density Residential on the Future Development Plan unless such low-density property is used for a nonresidential land use such as a church, school or park.

Policy 2.2: Consider Access

Higher-density residential developments shall have frontage and main access directly on major thoroughfares.

Policy 2.3: Protect Areas Planned for Medium- and Higher-Density Residential Developments

Avoid reducing medium- and higher-density residential areas as shown on the Future Development Plan Map by allowing encroachment of nonresidential land uses which are not customarily allowed in residential districts.

Policy 2.4: Reserve Suitable Sites

Reserve suitable land areas of adequate size to accommodate medium- and higher-density residential development near or adjacent to employment centers.

Policy 2.7: Adhere to Future Development Plan

A feasibility study for developments increasing the amount of medium- and higher-density residential areas beyond what is shown on the Community Development Plan Map may be required to assist in the evaluation of a proposed project. The feasibility study will include:

- a) Explanation of why the area is not adequately served by the medium- and higher-density residential development shown on the Community Development Plan Map.
- b) An analysis of the impact of traffic generated by the development on adjacent streets.

Policy 3.1: Use Appropriate Transitional Methods

Appropriate transitional methods should be considered at all locations where the development or expansion of either more or less intensive land uses abut medium- and higher-density residential property (either built or zoned). In general, transitions between different types of intensities of land use should be made gradually, particularly where natural or man-made buffers are not available. Compatible transition from nonresidential or higher-density residential uses to lower density residential uses should consider:

- a) Site Orientation:
 - 1) Site design should be oriented so that less compatible uses such as recreational facilities are located in the interior of the development and not adjacent or in close proximity to low-density residential neighborhoods.
 - 2) Site access should be off of collector or thoroughfare streets.
 - 3) Where appropriate, streets may be used as boundaries between different intensities of land uses.
- b) Building Relationships:
 - 1) A back-to-back relationship is preferable between different intensities of residential land uses.
 - 2) Medium-density residential uses should not have lesser setbacks than abutting low-density residential uses.
 - 3) The height and bulk of a medium-density residential buildings and accessory structures (clubhouses, satellite dishes, etc.) should be oriented away from low-density residential neighborhoods to avoid creating a negative visual effect.
 - 4) Where medium-density residential development adjoins or faces a low-density residential area, the medium-density residential development should incorporate low-rise structures of a lower-density character for those areas closest to the low-density development.
- c) Land Features:
 - 1) Promote the retention of stands of trees, natural vegetation, wetlands, and environmentally sensitive areas whenever possible to separate medium- or higher-density residential development from other more or less intensive land uses.
 - 2) Where possible, use existing differences in topography to naturally separate medium- and higher-density developments and other more or less intensive land uses.
- d) Screening and Landscaping:
 - 1) Encourage the creative and extensive use of landscaping and berming techniques for effective buffering between differing intensities of land uses and to increase neighborhood privacy and security.
 - 2) Avoid the use of fences as a sole means of providing screening and buffering.
 - 3) Promote the use of existing vegetation such as stands of trees and hedgerows as natural buffers.
 - 4) Encourage the use of high quality materials in the construction of fencing and landscaping to decrease long-term maintenance costs and to make it less likely that neglected, unsightly areas will occur.
- e) Lighting:
 - 1) Any lighting used to illuminate parking areas, signs or other structures shall be arranged so as to deflect light away from any adjoining property or from public streets through fixture type, height, and location.

- 2) Exterior lighting of buildings shall be limited to low level incandescent spotlights, floodlights, and similar illuminating devices hooded in such a manner that the direct beam of any such light source will not glare upon adjacent property or public streets.

Policy 3.4: Allow the Option of Medium-Density Residential as a Transitional Use

Allow the use of medium-density residential as a transitional land use between low-density residential and other more intensive uses.

8. **STAFF ANALYSIS OF THE APPLICATION:** The preliminary development plan submitted with this rezoning request includes eight (8) free standing two-story apartment buildings. The 120 total residential units would be placed in seven (7) 16-unit buildings, and one (1) 8-unit building at the northernmost extent of the buildable area of the property. A majority of the residential units, 72 of the 120 total residential units, are proposed to be two bedroom units, with twelve (12) three bedroom units and 36 one bedroom units, for a total of 216 bedrooms.

The exterior finish of the buildings are proposed to be a combination of cultured stone veneer and hardi-board concrete lap siding accented with some standing seam metal entrance canopies. The proposed buildings provide some breaks in the rooflines with a few hips and gables in the roof structures, but the main roof structures of each building will be one dominant hip-roof structure.

Gross vs. Net Land Area

The subject property is over 14 acres in size based on gross land area. There are several existing physical aspects to this tract of land that limit its development potential over the entire 14+ acres area. Along the east side of the property is an existing open drainage way that is fed by a 200+ acre sub-drainage basin area on the properties located south of 167th Street. The Kill Creek drainage study conducted by Johnson County indicates that this drainage way will be designed to be within the 100 year floodplain when FEMA adopts the results of this updated drainage study.

Most notable, the northwest portion of this triangle shaped parcel of land, about 250 feet wide, or almost half of the gross parcel land area, is encumbered by existing natural gas transmission lines and easements. These gas line easements prohibit the construction of any buildings and probably also limit the ability to construct parking lots and/or private access roads within this land area.

This parcel of land is essentially an island piece of property limited to only one point of access off of 167th Street. Its development potential for traditional single family homes as it is currently zoned is very limited.

Based on the gross 14+ acres of land associated with this rezoning request, the 120 proposed total residential units equate to 8.34 units per acre, which is greater than the six (6) units per acre maximum density designated in the Comprehensive Plan for Low Density Residential development areas, but 8.34 acres is not even at the mid-point of the density range (6 to 15 units per acre) of the Medium-Density residential category in the Community Development Plan.

Factoring out the non-buildable gas line easement land areas and the drainage way along the east side of the property that is likely to be designated as 100 year floodplain in the near future, the net 6+ acres of buildable land results in a calculated density of about 18 to 20 units an acre, which is above the maximum threshold of the Medium-Density Residential land use designation within the Community Development Plan.

Proposed Fabric of Multi-Family Use

The submitted preliminary development plan with this rezoning request represents the maximum amount of building and parking area that this property can accommodate. In staff's opinion, this submitted preliminary development plan actually represents more than what can reasonably be accommodated given the true limitations of the floodplain on the east side of the property and the actual limits likely to be imposed on extending paved parking lots over the dedicated gas line easement areas. While this proposed development plan appears to be excessive given the true constraints of the development area, it does represent a good basis for discussion by the Planning Commission and ultimately the City Council, to evaluate and establish policy parameters on the type and layout of non-single family developments in the northwest development area of Gardner.

The applicant could modify the requested density of this rezoning application by changing the mixture and combination of one, two, and three bedroom units into all three bedroom apartment units, thus lowering the overall calculated residential density of the project and lowering the minimum parking requirements while maintaining the proposed 216 bedrooms. While this seems like an easy modification, in reality an apartment developer of this type and style of market-based rental properties usually would need a set combination of different bedroom units and sufficient parking to meet the market demand and satisfy a business plan needed to secure financing.

In staff's opinion, the general layout, types of units, and architectural design of the proposed buildings associated with this rezoning application could be a viable apartment development for this area of Gardner in the near future. There are several other smaller or somewhat isolated tracts of land in the northwest development area of Gardner that also face development constraints that will probably not readily or economically accommodate traditional single family development.

While the Gardner community has been rather fortunate in the past several yearss in being able to plan and approve zoning for mostly large scale master-planned residential developments that offer ranges of types and densities of residential units, policy direction and discussion are needed on the acceptable development parameters for the types and styles of residential units envisioned in this area of the community on smaller difficult-to-build or isolated tracts of land.

9. **STAFF RECOMMENDATION:** Staff is not comfortable at this time in recommending either approval or denial of this rezoning request without some additional policy discussion, and ultimately policy direction, by the Planning Commission on many of the development issues noted in the body of this report.

Chairman Koranda invited comments from the applicant. Joel Riggs of Peridian Group, Inc., engineer for the applicant, gave a presentation.

Chairman Koranda invited comments from the commissioners. There were no comments.

Chairman Koranda invited comments from the public. There were no public comments.

Motion Schultz, second Popp, to close the public hearing at 8:52 p.m.

Motion Carried: 6 to 0 Aye (Burnett: Absent)

Chairman Koranda invited questions from the commissioners.

Commissioner Kilgore asked what the future development of the property to the west was expected to be. Director Sherman stated that, other than the indicated undevelopable gas line easements, most of that land would probably be developed as single family residential areas.

Commissioner Mertz and Director Sherman discussed the current land uses surrounding the subject property.

Commissioner Godwin stated that it was not the Planning Commission's job to consider the applicant's economic goals, but to consider the compatibility of the request with the current City policies and surrounding land uses. He pointed out that the proposed development had a density too high to be immediately adjacent to the developing single family residential area east of the property, and that the proposal violated several current City development policies.

The commissioners discussed policy issues of calculating density and open space areas at length.

Chairman Koranda stated three issues that needed to be addressed by the applicant:

- the need for abundant landscaping and designed usage of the extensive open space areas;
- the excessive density of the design and architecture; and
- the need for lower density immediately adjacent to the existing single family residential area.

The commissioners discussed their overall preference for reduced density of the proposed development at length.

Motion Mertz, second Kilgore, to table the Rezoning Request for the Kill Creek Properties, L.L.C., property (Z-06-07) and its associated Preliminary Development Plan for Kill Creek Run (PDP-06-06) to the September 25, 2006, Planning Commission meeting.

Motion to Table Carried: 6 to 0 Aye (Burnett: Absent)

Chairman Koranda called a short recess at 9:47 p.m.

Chairman Koranda recalled the meeting to order at 9:54 p.m.

Motion Mertz, second Popp, to extend the meeting to 10:30 p.m.

Motion to Extend Carried: 6 to 0 Aye (Burnett: Absent)

5. Z-06-09; PDP-06-09

Conduct a public hearing and consider rezoning property from A (Agricultural District) to RP-3 (Planned Garden Apartment District) for a 12.08 acre property located on the southeast corner of the 167th Street/Waverly Road intersection. The application is filed by Jabez Development, Inc.; with engineering services provided by Peridian Group, Inc.

Chairman Koranda opened the public hearing at 9:55 p.m.

Planner Pollom presented the staff report.

1. **APPLICANT:** Jabez Investments, L.L.C., is the applicant; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests rezoning of 12.08 acres from A (Agricultural District) to RP-3 (Planned Garden Apartment District).
3. **LOCATION:** The 12.08 acre property is located on the southeast corner of the Waverly Road and 167th Street intersection.
4. **EXISTING ZONING:** The property is currently zoned A, Agricultural District, upon annexation into the City of Gardner (Ord 2172).
5. **CHARACTER OF THE NEIGHBORHOOD:** The land immediately surrounding the subject property is characterized as the developing northwest fringe of the City of Gardner. Existing uses include Madison Elementary School and a developing single family subdivision to the immediate south; single family residential uses to the southwest; a church facility, agricultural, and residential uses on the west side of Waverly Road to the immediate west; a developing single family subdivision (Megan Valley) to the northwest; agricultural and two existing residences to the north (approved for a mixed-density residential development by Z-06-04); and two farms that are not incorporated into the City of Gardner to the immediate east (on the south side of 167th Street) and to the northeast (on the north side of 167th Street). The other significant character defining elements in this immediate area are the new overhead power transmission lines running along the north side of 167th Street and the east side of Waverly Road, and the developing Gardner electrical substation site on the west side of Waverly Road, northwest of this subject property.
6. **LAND USE AND ZONING PATTERNS:** The surrounding properties are zoned R-1, Single Family Residential District, to the northwest and south; A, Agricultural District, to the immediate west and north; RP-3, Planned Garden Apartment District, and RP-1, Planned Single Family Residential District, to the northeast; and Johnson County – RUR to the immediate east and southeast.
7. **CONFORMANCE TO THE COMMUNITY DEVELOPMENT PLAN:** The Gardner Community Development Plan - 2003 denotes urban residential land uses and low-density residential development uses for this immediate area. Given the fact that the Development Plan Map shows the subject property as appropriate for low-density residential uses, the proposed RP-3, Planned Garden Apartment District, does not strictly conform to the Community Development Plan. Rezoning the property to RP-3 could be complementary with the intent and policies of the plan. The general goal of the plan for medium density residential land uses is to help form residential neighborhoods that are stable, safe and aesthetically pleasing. Specific policies for medium and high-density land uses include:

Policy 1.1: Ensure Quality Development

Encourage emphasis on open space, access to light and air, and the provision of amenities generally associated with and available to low-density residential development in all medium- and higher-density residential developments.

Policy 1.2: Preserve and Protect the Environment

Encourage the preservation and protection of trees, natural vegetation, wetlands, and environmentally sensitive areas in medium- and higher-density residential developments to serve as site amenities.

Policy 1.3: Provide Open Space

Encourage the provision of usable open space on site by clustering buildings to minimize the creation of narrow strips of unusable open space in front of and between buildings.

Policy 1.4: Consider Appropriate Density

The number of dwelling units per acre in any residential category should be viewed as representing a density range rather than a maximum allowable density. The exact density of a specific tract is to be determined at the time of rezoning based on the following:

- e) Only projects with exceptional design and locational criteria will warrant density exceeding the midpoint of the density range.
- f) Natural constraints, public facilities, streets and traffic patterns, neighborhood character, community need and surrounding zoning and land use patterns are to be taken into consideration.

Policy 1.5: Provide for Variety in Housing Types

Encourage the use of a variety of housing types, including townhomes, patio homes, duplexes, zero lot line homes, cluster housing, garden apartments and retirement housing.

Policy 2.1: Consider Land Use Relationships

The relationship of land uses should reflect consideration of existing development, environmental conditions, and service and access needs. No higher-density development (more than 15 units per net acre) shall have a property line common with properties zoned for single-family and designated as Low-Density Residential on the Future

Development Plan unless such low-density property is used for a nonresidential land use such as a church, school or park.

Policy 2.2: Consider Access

Higher-density residential developments shall have frontage and main access directly on major thoroughfares.

Policy 2.3: Protect Areas Planned for Medium- and Higher-Density Residential Developments

Avoid reducing medium- and higher-density residential areas as shown on the Future Development Plan Map by allowing encroachment of nonresidential land uses which are not customarily allowed in residential districts.

Policy 2.4: Reserve Suitable Sites

Reserve suitable land areas of adequate size to accommodate medium- and higher-density residential development near or adjacent to employment centers.

Policy 2.7: Adhere to Future Development Plan

A feasibility study for developments increasing the amount of medium- and higher-density residential areas beyond what is shown on the Community Development Plan Map may be required to assist in the evaluation of a proposed project. The feasibility study will include:

- c) Explanation of why the area is not adequately served by the medium- and higher-density residential development shown on the Community Development Plan Map.
- d) An analysis of the impact of traffic generated by the development on adjacent streets.

Policy 3.1: Use Appropriate Transitional Methods

Appropriate transitional methods should be considered at all locations where the development or expansion of either more or less intensive land uses abut medium- and higher-density residential property (either built or zoned). In general, transitions between different types of intensities of land use should be made gradually, particularly where natural or man-made buffers are not available. Compatible transition from nonresidential or higher-density residential uses to lower density residential uses should consider:

- b) Site Orientation:
 - 4) Site design should be oriented so that less compatible uses such as recreational facilities are located in the interior of the development and not adjacent or in close proximity to low-density residential neighborhoods.
 - 5) Site access should be off of collector or thoroughfare streets.
 - 6) Where appropriate, streets may be used as boundaries between different intensities of land uses.
- b) Building Relationships:
 - 5) A back-to-back relationship is preferable between different intensities of residential land uses.
 - 6) Medium-density residential uses should not have lesser setbacks than abutting low-density residential uses.
 - 7) The height and bulk of a medium-density residential buildings and accessory structures (clubhouses, satellite dishes, etc.) should be oriented away from low-density residential neighborhoods to avoid creating a negative visual effect.
 - 8) Where medium-density residential development adjoins or faces a low-density residential area, the medium-density residential development should incorporate low-rise structures of a lower-density character for those areas closest to the low-density development.
- c) Land Features:
 - 3) Promote the retention of stands of trees, natural vegetation, wetlands, and environmentally sensitive areas whenever possible to separate medium- or higher-density residential development from other more or less intensive land uses.
 - 4) Where possible, use existing differences in topography to naturally separate medium- and higher-density developments and other more or less intensive land uses.
- d) Screening and Landscaping:
 - 5) Encourage the creative and extensive use of landscaping and berming techniques for effective buffering between differing intensities of land uses and to increase neighborhood privacy and security.
 - 6) Avoid the use of fences as a sole means of providing screening and buffering.
 - 7) Promote the use of existing vegetation such as stands of trees and hedgerows as natural buffers.
 - 8) Encourage the use of high quality materials in the construction of fencing and landscaping to decrease long-term maintenance costs and to make it less likely that neglected, unsightly areas will occur.
- e) Lighting:
 - 3) Any lighting used to illuminate parking areas, signs or other structures shall be arranged so as to deflect light away from any adjoining property or from public streets through fixture type, height, and location.
 - 4) Exterior lighting of buildings shall be limited to low level incandescent spotlights, floodlights, and similar illuminating devices hooded in such a manner that the direct beam of any such light source will not glare upon adjacent property or public streets.

Policy 3.4: Allow the Option of Medium-Density Residential as a Transitional Use

Allow the use of medium-density residential as a transitional land use between low-density residential and other more intensive uses.

- 8. **STAFF ANALYSIS OF THE APPLICATION:** The submitted development plan with this rezoning request indicates the development of six (6) 24 unit apartment buildings for a total unit count of 144, with a pool. The submitted preliminary development plan does not provide a breakdown detail of the bedroom count to confirm the parking requirements, nor were proposed building elevations provided.

This level of residential density, which is about 12 units per net acre, is being requested to allow development that is economically viable within the physical constraints of the property. The depth of the lot is constricted by a drainage way and flood plain to the south, such that there is insufficient space to develop the property with traditional single family residences that would require a public street.

The applicant's original rezoning request (Z-06-03) was to zone this property to CP-2, Planned General Business District. That rezoning request was denied. At that same City Council meeting, the property to the south was requested for medium-density residential as a transitional use, and was ultimately approved with a zoning of R-1, Single Family Residential, by provision of the lesser change table (Z-06-02, Ord. 2193).

The current request for RP-3 zoning at this site represents a northward shift of that proposed transitional land use onto a piece of ground that was deemed inappropriate for commercial development with the denial of Z-06-03 rezoning request. In staff's opinion, this property is physically prohibited from developing with many traditional detached low-density residential development uses.

9. **STAFF RECOMMENDATION:** If the Planning Commission finds that the proposed rezoning request and submitted preliminary development provides enough regulatory control on this property, then staff recommends that the Planning Commission forward the rezoning application Z-06-09, rezoning 12.08 acres from A, Agricultural District, to RP-3, Planned Garden Apartment District to the City Council with a recommendation for approval, with the following stipulations:
- The development shall be in accordance with Exhibit "A" (Preliminary Development Plan) which is filed in the office of the Planning Commission Secretary at City Hall and which is incorporated by reference as if set out in full herein. In addition, the development shall comply with all regulations and standards of the City of Gardner unless specifically exempted by the Governing Body.
 - The development shall be limited to 144 units.
 - The location and geometrics of all driveways, sidewalks, public streets, and parking areas are subject to review and approval by Community Development Department staff.
 - Prior to the issuance of building permits, the Planning Commission shall approve a final development plan for this subject property.

Chairman Koranda invited comments from the applicant. Joel Riggs of Peridian Group, Inc., engineer for the applicant, gave a presentation.

Chairman Koranda invited comments from the commissioners. There were no comments.

Chairman Koranda invited comments from the public. There were no public comments.

Motion Schultz, second Mertz, to close the public hearing at 10:05 p.m.

Motion Carried: 6 to 0 Aye (Burnett: Absent)

The commissioners discussed their overall disapproval of the design of the proposed development and suggested several building location changes.

Chairman Koranda suggested that the possibility of utilizing the subject property for commercial uses should not be entirely dismissed.

Motion Mertz, second Schultz, to table the Rezoning Request for the Jabez Development, Inc., property (Z-06-09) and its associated Preliminary Development Plan for Granite Springs South (PDP-06-09) to the September 25, 2006, Planning Commission meeting.

Motion to Table Carried: 6 to 0 Aye (Burnett: Absent)

6. Z-06-08; PDP-06-08

Conduct a public hearing and consider rezoning property from A (Agricultural District) to CP-2 (Planned General Business District) for a 34.84 acre property located on the northeast corner of the 167th Street/Waverly Road intersection. The application is filed by Jabez Development, Inc.; with engineering services provided by Peridian Group, Inc. provided by Peridian Group, Inc.

Chairman Koranda opened the public hearing at 10:19 p.m.

Director Sherman presented the staff report.

1. **APPLICANT:** Jabez Investments, L.L.C., is the applicant; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests rezoning of 12.08 acres from A (Agricultural District) to RP-3 (Planned Garden Apartment District).
3. **LOCATION:** The 12.08 acre property is located on the southeast corner of the Waverly Road and 167th Street intersection.
4. **EXISTING ZONING:** The property is currently zoned A, Agricultural District, upon annexation into the City of Gardner (Ord 2172).
5. **CHARACTER OF THE NEIGHBORHOOD:** The land immediately surrounding the subject property is characterized as the developing northwest fringe of the City of Gardner. Existing uses include Madison Elementary School and a developing single family subdivision to the immediate south; single family residential uses to the southwest; a church facility, agricultural, and residential uses on the west side of Waverly Road to the immediate west; a developing single family subdivision (Megan Valley) to the northwest; agricultural and two existing residences to the north (approved for a mixed-density residential development by Z-06-04); and two farms that are not incorporated into the City of Gardner to the immediate east (on the south side of 167th Street) and to the northeast (on the north side of 167th Street). The other significant character defining elements in this immediate area are the new overhead power transmission lines running along the north side of 167th Street and the east side of Waverly Road, and the developing Gardner electrical substation site on the west side of Waverly Road, northwest of this subject property.
6. **LAND USE AND ZONING PATTERNS:** The surrounding properties are zoned R-1, Single Family Residential District, to the northwest and south; A, Agricultural District, to the immediate west and north; RP-3, Planned Garden Apartment District, and RP-1, Planned Single Family Residential District, to the northeast; and Johnson County - RUR to the immediate east and southeast.
7. **CONFORMANCE TO THE COMMUNITY DEVELOPMENT PLAN:** The Gardner Community Development Plan - 2003 denotes urban residential land uses and low-density residential development uses for this immediate area. Given the fact that the Development Plan Map shows the subject property as appropriate for low-density residential uses, the proposed RP-3, Planned Garden Apartment District, does not strictly conform to the Community Development Plan. Rezoning the property to RP-3 could be complementary with the intent and policies of the plan. The general goal of the plan for medium density residential land uses is to help form residential neighborhoods that are stable, safe and aesthetically pleasing. Specific policies for medium and high-density land uses include:

Policy 1.1: Ensure Quality Development

Encourage emphasis on open space, access to light and air, and the provision of amenities generally associated with and available to low-density residential development in all medium- and higher-density residential developments.

Policy 1.2: Preserve and Protect the Environment

Encourage the preservation and protection of trees, natural vegetation, wetlands, and environmentally sensitive areas in medium- and higher-density residential developments to serve as site amenities.

Policy 1.3: Provide Open Space

Encourage the provision of usable open space on site by clustering buildings to minimize the creation of narrow strips of unusable open space in front of and between buildings.

Policy 1.4: Consider Appropriate Density

The number of dwelling units per acre in any residential category should be viewed as representing a density range rather than a maximum allowable density. The exact density of a specific tract is to be determined at the time of rezoning based on the following:

- g) Only projects with exceptional design and locational criteria will warrant density exceeding the midpoint of the density range.
- h) Natural constraints, public facilities, streets and traffic patterns, neighborhood character, community need and surrounding zoning and land use patterns are to be taken into consideration.

Policy 1.5: Provide for Variety in Housing Types

Encourage the use of a variety of housing types, including townhomes, patio homes, duplexes, zero lot line homes, cluster housing, garden apartments and retirement housing.

Policy 2.1: Consider Land Use Relationships

The relationship of land uses should reflect consideration of existing development, environmental conditions, and service and access needs. No higher-density development (more than 15 units per net acre) shall have a property line common with properties zoned for single-family and designated as Low-Density Residential on the Future Development Plan unless such low-density property is used for a nonresidential land use such as a church, school or park.

Policy 2.2: Consider Access

Higher-density residential developments shall have frontage and main access directly on major thoroughfares.

Policy 2.3: Protect Areas Planned for Medium- and Higher-Density Residential Developments

Avoid reducing medium- and higher-density residential areas as shown on the Future Development Plan Map by allowing encroachment of nonresidential land uses which are not customarily allowed in residential districts.

Policy 2.4: Reserve Suitable Sites

Reserve suitable land areas of adequate size to accommodate medium- and higher-density residential development near or adjacent to employment centers.

Policy 2.7: Adhere to Future Development Plan

A feasibility study for developments increasing the amount of medium- and higher-density residential areas beyond what is shown on the Community Development Plan Map may be required to assist in the evaluation of a proposed project. The feasibility study will include:

- e) Explanation of why the area is not adequately served by the medium- and higher-density residential development shown on the Community Development Plan Map.
- f) An analysis of the impact of traffic generated by the development on adjacent streets.

Policy 3.1: Use Appropriate Transitional Methods

Appropriate transitional methods should be considered at all locations where the development or expansion of either more or less intensive land uses abut medium- and higher-density residential property (either built or zoned). In general, transitions between different types of intensities of land use should be made gradually, particularly where natural or man-made buffers are not available. Compatible transition from nonresidential or higher-density residential uses to lower density residential uses should consider:

- c) Site Orientation:
 - 7) Site design should be oriented so that less compatible uses such as recreational facilities are located in the interior of the development and not adjacent or in close proximity to low-density residential neighborhoods.
 - 8) Site access should be off of collector or thoroughfare streets.
 - 9) Where appropriate, streets may be used as boundaries between different intensities of land uses.
- b) Building Relationships:
 - 9) A back-to-back relationship is preferable between different intensities of residential land uses.
 - 10) Medium-density residential uses should not have lesser setbacks than abutting low-density residential uses.
 - 11) The height and bulk of a medium-density residential buildings and accessory structures (clubhouses, satellite dishes, etc.) should be oriented away from low-density residential neighborhoods to avoid creating a negative visual effect.
 - 12) Where medium-density residential development adjoins or faces a low-density residential area, the medium-density residential development should incorporate low-rise structures of a lower-density character for those areas closest to the low-density development.
- c) Land Features:
 - 5) Promote the retention of stands of trees, natural vegetation, wetlands, and environmentally sensitive areas whenever possible to separate medium- or higher-density residential development from other more or less intensive land uses.
 - 6) Where possible, use existing differences in topography to naturally separate medium- and higher-density developments and other more or less intensive land uses.
- d) Screening and Landscaping:
 - 9) Encourage the creative and extensive use of landscaping and berming techniques for effective buffering between differing intensities of land uses and to increase neighborhood privacy and security.
 - 10) Avoid the use of fences as a sole means of providing screening and buffering.
 - 11) Promote the use of existing vegetation such as stands of trees and hedgerows as natural buffers.
 - 12) Encourage the use of high quality materials in the construction of fencing and landscaping to decrease long-term maintenance costs and to make it less likely that neglected, unsightly areas will occur.
- e) Lighting:
 - 5) Any lighting used to illuminate parking areas, signs or other structures shall be arranged so as to deflect light away from any adjoining property or from public streets through fixture type, height, and location.
 - 6) Exterior lighting of buildings shall be limited to low level incandescent spotlights, floodlights, and similar illuminating devices hooded in such a manner that the direct beam of any such light source will not glare upon adjacent property or public streets.

Policy 3.4: Allow the Option of Medium-Density Residential as a Transitional Use

Allow the use of medium-density residential as a transitional land use between low-density residential and other more intensive uses.

8. **STAFF ANALYSIS OF THE APPLICATION:** The submitted development plan with this rezoning request indicates the development of six (6) 24 unit apartment buildings for a total unit count of 144, with a pool. The submitted preliminary development plan does not provide a breakdown detail of the bedroom count to confirm the parking requirements, nor were proposed building elevations provided.

This level of residential density, which is about 12 units per net acre, is being requested to allow development that is economically viable within the physical constraints of the property. The depth of the lot is constricted by a drainage way and flood plain to the south, such that there is insufficient space to develop the property with traditional single family residences that would require a public street.

The applicant's original rezoning request (Z-06-03) was to zone this property to CP-2, Planned General Business District. That rezoning request was denied. At that same City Council meeting, the property to the south was requested for medium-density residential as a transitional use, and was ultimately approved with a zoning of R-1, Single Family Residential, by provision of the lesser change table (Z-06-02, Ord. 2193).

The current request for RP-3 zoning at this site represents a northward shift of that proposed transitional land use onto a piece of ground that was deemed inappropriate for commercial development with the denial of Z-06-03 rezoning request. In staff's opinion, this property is physically prohibited from developing with many traditional detached low-density residential development uses.

9. **STAFF RECOMMENDATION:** If the Planning Commission finds that the proposed rezoning request and submitted preliminary development provides enough regulatory control on this property, then staff recommends that the Planning Commission forward the rezoning application Z-06-09, rezoning 12.08 acres from A, Agricultural District, to RP-3, Planned Garden Apartment District to the City Council with a recommendation for approval, with the following stipulations:
- a. The development shall be in accordance with Exhibit "A" (Preliminary Development Plan) which is filed in the office of the Planning Commission Secretary at City Hall and which is incorporated by reference as if set out in full herein. In addition, the development shall comply with all regulations and standards of the City of Gardner unless specifically exempted by the Governing Body.
 - b. The development shall be limited to 144 units.
 - c. The location and geometrics of all driveways, sidewalks, public streets, and parking areas are subject to review and approval by Community Development Department staff.
 - d. Prior to the issuance of building permits, the Planning Commission shall approve a final development plan for this subject property.

Chairman Koranda invited comments from the applicant. Joel Riggs of Peridian Group, Inc., engineer for the applicant, gave a presentation.

Chairman Koranda invited comments from the commissioners. Director Sherman and the commissioners discussed factors to be considered in determining future use and layout of the subject property.

Chairman Koranda invited comments from the public. There were no public comments.

Motion Mertz, second Schultz, to close the public hearing at 10:47 p.m.

Motion Carried: 6 to 0 Aye (Burnett: Absent)

Motion Mertz, second Schultz, to table the Rezoning Request for the Jabez Development, Inc., property (Z-06-08) and its associated Preliminary Development Plan for Granite Springs North (PDP-06-08) to the September 25, 2006, Planning Commission meeting.

Motion to Table Carried: 6 to 0 Aye (Burnett: Absent)

V. Adjourn

Motion Mertz, second Schultz, to adjourn the meeting at 10:50 p.m.

Motion to Adjourn Carried: 6 to 0 Aye (Burnett: Absent)

Cindy Weeks, Planning Service Specialist

[illegible]